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09/850,993	05/09/2001	Paul Estridge JR.		3491

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EXAMINER

VIG, NARESH

ART UNIT PAPER NUMBER

3629

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

This is in reference to communication received 19 July 2006. Claims 1-56, 59 and 61-70 are pending for examination.

Response to Arguments

Applicant's arguments and concerns regarding amended pending claims are responded to in response to the pending claims.

Claim Rejections - 35 USC § 103

Claims 1-56, 59 and 61-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over information retrieved from Metropolitan Regional Information Systems, Inc. hereinafter known as MRIS in view of Modern Real Estate Practice by Galaty et al. hereinafter known as Galaty.

Regarding claim 1, MRIS teaches list of homes available for sale and rent by owners and listed by the real estate agents in the MRIS system which include the information of what facilities and utilities are covered by the Home Owner Association Fee (HOA Fee) which is periodically paid by the home owner to the HOA association. It is obvious to one of ordinary skill in the art at the time of invention that builders provide HOA bylaws, and list of items covered with the HOA fee which is periodically paid by the

Art Unit: 3629

homeowner. In addition, it is known at the time of invention that easements are also created to provide services like utility services to the homeowners. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention that the listing information provided for homes teach that there has been existence in business practice wherein development of real estate comprises:

separating private easements for the provision of common services in a developed community from dedicated public rights-of-way (MRIS, page 3 (data is from sale of a real estate which was closed on 15 May 1998, teaches that Condominium Association of Villa Ridge provides common services like Electricity, Gas etc.). Even though MRIS does not explicitly teach separating private easements for the provision of common services (e.g. gas pipe, electric wire) from dedicated public rights-of-way (walkway), it is inherent that Villa Ridge separates private easements for the provision of common services from dedicated public rights-of-way for public safety (e.g. preventing residents walking on the walkway from getting electrocuted).

MRIS implicitly teaches establishment of one or more decision making authorities/access entities to control said private easements as privately owned entities and to identify and contract with various service providers. Galaty teaches establishing decision making authority regarding control over said private easements in a privately owned entity to identify and contract with various service providers (e.g. condominium association, home owners association, Planned Urban Development) [page 124];

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made that MRIS in view of Galaty teaches establishment of one or more decision making authorities to manage property, pay utility bills etc.

It is inherent that MRIS in view of Galaty teaches precluding access to said private easements by individual lot owners in said developed community and governmental franchisees for providing said common services (residents of Villa Ridge use utilities and services covered by their Condo Fee); and

It is inherent that MRIS in view of Galaty teaches providing said common services (electricity, gas) to said developed community (Villa Ridge) through said one or more decision making authorities/access entities (Condominium Association), said one or more decision making authorities/access entities obtaining common services from one or more common services providers (e.g. Washington Gas, PEPCO).

Regarding claim 2, MRIS in view of Galaty teaches existence of business practice with concept of:

acquiring fee simple ownership in a parcel of real estate for developing into a community [MRIS page 19];

transferring exclusive rights in and to said common services easements within said parcel to said at least one decision making authority/access entity [page 19]; and

dedicating public rights-of-way for roadways, curbs, and sidewalks to a municipality, said dedicated public right-of-way being taken by said municipality subject to said exclusive rights (applicant is claiming roads in a city where a subdivision is

located and wherein roads are maintained by city or local governing entities as their claimed invention. For example, in subdivision of Mill Creek South (in Montgomery County, MD), some of the residences within the subdivisions have Road Maintenance and Snow Removal being performed by Montgomery County Government), said municipality having no control over common services access as a result of said dedicated public rights-of-way, said common services providers having acquired rights through said municipality having no access to said community (Villa Ridge providing common services).

Regarding claim 3, MRIS in view of Galaty teaches existence of business practice wherein exclusive rights comprise in gross easements and specific area easements [Galaty, page 104].

Regarding claim 4, MRIS in view of Galaty teaches existence of business practice wherein specific area easements, and wherein any other easements for providing common services within said developed community are restricted by declarations, covenants and restrictions governing and running with said parcel of real estate.

Regarding claim 5, MRIS in view of Galaty teaches existence of business practice wherein developer entity and said decision making authority/access entity are separate legally recognized entities (old and known that a builder does not have to be

Art Unit: 3629

the management entity, applicant is claiming outsourcing of property management as their claimed invention).

Regarding claim 6, it is inherent that MRIS in view of Galaty teaches existence of business practice wherein exclusive rights transferred by said developer entity to said decision making authority/access entity include the right to establish infrastructure for common services on both commonly owned and privately owned areas within said community (e.g. connecting water supply from curb to the residence).

Regarding claim 7, MRIS in view of Galaty teaches existence of business practice wherein exclusive rights transferred by said developer entity to said decision making authority/access entity include the rights to contract with providers of common services for providing said common services to said community (contracting of water supply from local supplier, for example, WSSC provides water and sewage, PEPCO provides electricity in Montgomery County, MD where Villa Ridge is located).

Regarding claim 8, MRIS in view of Galaty teaches existence of business practice wherein recording said transferring of said exclusive rights with an appropriate governmental real estate records office before said dedicating step, said common services easements appearing within the chain of title of said parcel before said dedication of said public rights-of-way and said municipality takes said dedication

Art Unit: 3629

subject to said exclusive rights [Galaty, 489] (applicant is claiming recordation made with the county for real estate transaction as their claimed invention).

Regarding claim 9, MRIS in view of Galaty teaches existence of business practice wherein common services comprise cable services [MRIS, page 24].

Regarding claim 10, MRIS in view of Galaty teaches existence of business practice wherein common services comprise electricity services.

Regarding claim 11, MRIS in view of Galaty teaches existence of business practice wherein each step is performed pursuant to obligations arising out of a system of interrelated contractual requirements regarding the development of said community.

Regarding claim 12, MRIS in view of Galaty teaches existence of business practice with capability for implementing a fee structure that encourages the owner of said private common services easements to enter into and maintain license arrangements that permit at least one licensee to utilize said private common services easements for providing common services to said community;

said license arrangements providing a competitive shield for establishing said licensees as preferred sources of common services for said community (MRIS, Villa Ridge teaches charging Condo Fee which includes providing common services).

Art Unit: 3629

Regarding claim 13, MRIS in view of Galaty teaches existence of business practice wherein said owner of said private common services easements is at least one private decision making authority/access entity (for example, Condominium Association).

Regarding claim 14, MRIS in view of Galaty teaches existence of business practice of acquiring fee simple ownership in a parcel of real estate for developing into a community (purchase of the real estate in Fee Simple Ownership);

transferring exclusive rights of said common services easements in said parcel to said at least one access entity (inherent with Fee Simple); and

dedicating public rights-of-way for roadways, curbs, and sidewalks to a municipality, said dedicated public rights-of-way being taken by said municipality subject to said exclusive rights, said municipality having no control over common services access as a result of said dedicated public rights-of-way, and said common services providers having acquired rights through said municipality having no access to said community (this limitation has been responded to earlier).

Regarding claims 15-16, MRIS in view of Galaty teaches existence of business practice wherein builders have built subdivisions with HOA Fee includes provision of common services which are bundled telecommunication services (applicant is claiming bundling services provided by a service provider to a consumer as their claimed invention).

Regarding claims 17-18, MRIS in view of Galaty teaches existence of business practice wherein competitive shield comprises minimum access fee amounts and most favored nations status under which said private decision making authority/access entity may grant licenses to other common service providers in the event said fee structure is equaled or bettered by another common service provider (common business practice to find a competitive and better supplier to save cost, applicant is claiming function of a project management as their claimed invention).

Regarding claim 19, MRIS in view of Galaty teaches existence of business practice wherein license arrangement permit said licensee to sublicense use of said private easements to individual providers of services included in said common services (applicant is claiming Scope and requirements for a project as their claimed invention).

Regarding claim 20, MRIS in view of Galaty teaches existence of business practice wherein entering into a license arrangement with a decision making authority/access entity that owns and controls at least some of the common services easements of a parcel of real estate to be developed as a community, said license arrangement permitting access to and utilization of said easements; and utilizing said easements for providing common services to said community, wherein owners of lots within said community contract with a single source provider for the provision or coordination of said common services (for example, owners of lots contract with

Comcast to provide additional cable services because Comcast is the only selected choice in the real estate development for providing cable services).

Regarding claim 21, MRIS in view of Galaty teaches existence of business practice wherein making authority/access entity has beneficial and exclusive ownership of and control over all access to said common services easements within said developed community (as responded to earlier, applicant is claiming, implementation of usage rights in conformance with rules and regulations of the development as their claimed invention).

Regarding claim 22, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein beneficial and exclusive ownership of and control over said access to said common services easements is created by a process which comprises the steps of

acquiring fee simple ownership in a parcel of real estate for developing into a community;

transferring exclusive rights of said common services easements in said parcel to at least one said access entity; and

dedicating public rights-of-way of said parcel for roadways, curbs, and sidewalks to a municipality, said dedicated public rights-of-way being taken by said municipality subject to said exclusive rights, said municipality having no control over common services access as a result of said dedicated public rights-of-way, and said

Art Unit: 3629

common services providers having acquired rights through said municipality having no access to said community.

Regarding claim 23, MRIS in view of Galaty teaches existence of business practice wherein common services are provided to a plurality of lots in said community over fewer than three cables (applicant is claiming putting limitation on size of customer as their claimed invention).

Regarding claim 24, MRIS in view of Galaty teaches existence of business practice wherein cables are of a type selected from the group of cables consisting of co-axial and fiber optic cables (applicant is claiming type of wire used for providing cable services as their claimed invention).

Regarding claim 25, MRIS in view of Galaty teaches existence of business practice wherein license arrangement permits said single source provider to sublicense utilization of said easements to a plurality of individual providers of services included in said common services (applicant is claiming concept of sub-contracting as their claimed invention).

Regarding claim 26, MRIS in view of Galaty teaches existence of business practice wherein at least one of said individual service providers is a wholly owned

Art Unit: 3629

subsidiary of said single source provider (applicant is claiming wholly owned subsidiary of a larger entity as their claimed invention).

Regarding claim 27, MRIS in view of Galaty teaches existence of business practice wherein individual providers provide said common services to said single source at a central receiving facility wherefrom said single source distributes said common services to a plurality of lots in said community (applicant is claiming using of a central room like a switch room commonly found in Telephone Service implementation as their claimed invention, for example junction box).

Regarding claim 28, MRIS in view of Galaty teaches existence of business practice wherein common services comprise cable services.

Regarding claim 29, MRIS in view of Galaty teaches existence of business practice wherein common services comprise electricity services.

Regarding claim 30-31, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein common services comprise advanced bundled telecommunication services, premium advanced bundled telecommunication services.

Regarding claim 32, MRIS in view of Galaty teaches existence of business practice wherein license arrangement is entered into pursuant to obligations arising out of

a system of interrelated contractual requirements regarding the development of said community (applicant is claiming implementation of a licensing agreement with a service provider as their claimed invention).

Regarding claim 33, as responded to earlier, MRIS in view of Galaty teaches existence of business practice of:

- acquiring fee simple title in a parcel of real estate by a developer;
- separating in gross common services easements from said fee simple title;
- separating the public right-of-way from said common services easements and said fee simple title;
- separating all other easements from said common services easements and from said public right-of-way and from said fee simple title; transferring at least one of said common services and all other easements to a privately owned company for a fee; and dedicating said public right-of-way to the public; said public right-of-way being dedicated subject to said common services and all other easements previously transferred to said privately owned company thereby eliminating public control over said transferred easements and all public rights to access to said parcel for providing common services.

Regarding claim 34, MRIS in view of Galaty teaches existence of business practice wherein privately owned company constructing utility conduits on said parcel in accordance with said easements licensed to said company, said privately owned company sublicensing service providers for a fee to provide common services to owners

Art Unit: 3629

of any portion of said parcel, and said privately owned company allowing said sub-licensed common services providers to use said conduits (applicant is claiming builder installing conduits to connect owners property to the curb to connect to common services as their claimed invention).

Regarding claim 35, MRIS in view of Galaty teaches existence of business practice wherein common services providers provide cable services.

Regarding claim 36, MRIS in view of Galaty teaches existence of business practice wherein common services providers provide electricity services.

Regarding claim 37, MRIS in view of Galaty teaches existence of business practice wherein fee is proportioned and passed on to said private company by said service providers (Villa Ridge pays utility companies).

Regarding claim 38, MRIS in view of Galaty teaches existence of business practice wherein fee is proportioned and passed on to the owner of said privately-owned company (inherent when condo fee which included utilities, later on does not include utilities, and, each unit does not have individual meters, utility bills are proportioned and passed on to owners, common in old condominium complexes).

Regarding claim 39, MRIS in view of Galaty teaches existence of business practice wherein owner of said privately owned company developing a market plan for selling portions of said parcel by a developer, and said owner engaging in the training of said developer in marketing portions of said parcel (applicant is claiming add-ons sold with the property as their invention, or, claiming service provider is the developer which contradicts earlier claims).

Regarding claim 40, MRIS in view of Galaty teaches existence of business practice wherein developer contracting the construction of roads, other common infrastructure, homes on individual portions of said parcel, and the construction on said parcel and the development of said parcel (applicant is builder construction a road and housing as their claimed invention).

Regarding claim 41, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein privately owned company manages all of said sub-licensed service providers.

Regarding claims 42-43, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein common services are provided to developed community through a single source (applicant is claiming bundling of services as their claimed invention).

Regarding claim 44, MRIS in view of Galaty teaches existence of business practice wherein transferring step includes examining the recorded title documents relating to said parcel of real estate to determine what easements, reversions and other property rights exist that said parcel of real estate is subject relating to access by a common service provider to said parcel, and determining that no such easements, reversions or other property rights exist or otherwise relieving said parcel of real estate of said property rights prior to defining exclusive rights in and to said common service easements within said parcel of real estate and transferring said exclusive rights to said access entity (applicant is claiming Title Search as their claimed invention).

Regarding claim 45, it is inherent that MRIS in view of Galaty teaches the existence of dedication of said public rights-of-way for roadways, curbs, and sidewalks consists of the dedication of only surface rights for roadways, curbs, and sidewalks with the sub-surface rights being reserved and maintained as common areas (applicant is claiming bylaws of HOA as their claimed invention).

Regarding claim 46, MRIS in view of Galaty teaches existence of developer entity transfers exclusive rights in and to said common areas to a lot owners association.

Regarding claim 47, MRIS in view of Galaty teaches existence of exclusive rights are transferred by said transferring step in gross.

Regarding claim 48, MRIS in view of Galaty teaches existence of examining the recorded title documents relating to said parcel of real estate to determine what easements, reversions and other property rights exist that said parcel of real estate is subject with regard to access by a common service provider to said parcel, and determining that no such easements, reversions or other property rights exist or otherwise relieving said parcel of real estate of said property rights prior to defining exclusive rights in and to said common service easements within said parcel of real estate and transferring said exclusive rights to said access entity (applicant is claiming title search as their claimed invention).

Regarding claim 49, MRIS in view of Galaty teaches existence of dedication of said public rights-of-way for roadways, curbs, and sidewalks consists of the dedication of only surface rights for roadways, curbs, and sidewalks with the sub-surface rights being reserved and maintained as common areas.

Regarding claim 50, MRIS in view of Galaty teaches existence of business practice wherein common areas are transferred to a lot owners association.

Regarding claim 51, MRIS in view of Galaty teaches existence of business practice wherein exclusive rights are transferred in gross.

Regarding claim 52, MRIS in view of Galaty teaches existence of business practice wherein single source distributes said common services to a plurality of lots in said community through a computer network (applicant claims limiting number of service providers to provide services as their claimed invention).

Regarding claim 53, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein examining the recorded title documents to said parcel of real estate to determine what easements, reversions and other property rights that said parcel of real estate is subject relating to access to- said parcel of real estate by a common service provider, and determining that no such easements, reversions or other property rights exist or otherwise relieving said parcel of real estate from said property rights prior to defining exclusive rights in and to said common service easements within said parcel of real estate and transferring said exclusive rights to said access entity.

Regarding claim 54, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein dedication of said public rights-of-way for roadways, curbs, and sidewalks consists of the dedication of only surface rights for roadways, curbs, and sidewalks with the sub-surface rights being reserved and maintained as common areas.

Art Unit: 3629

Regarding claim 55, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein easements in and to said common areas are transferred to a lot owners association.

Regarding claim 56, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein easements are transferred in gross.

Regarding claim 59, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein access entity licensing a service provider for the provision of services to said developed community (applicant is claiming outsourcing provision of a service to a service provider as their claimed invention).

Regarding claim 61, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein transferring exclusive rights in and to said common services easements within said parcel to said one or more decision making authority (applicant is claiming transfer of rights to a decision making authority like a HOA as their claimed invention).

Regarding claim 62, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein exclusive rights comprise in gross easements and specific area easements.

Regarding claim 63, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein exclusive rights comprise specific area easements.

Regarding claim 64, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein easements for providing common services within said developed community are restricted by declarations, covenants, and restrictions governing and running with said parcel of real estate (applicant is claiming bylaws of a subdivision as their claimed invention).

Regarding claim 65, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein one or more decision making authorities having the right to establish infrastructure for common services on both commonly owned and privately owned areas within said community.

Regarding claim 66, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein one or more decision making authorities having the rights to contract with providers of common services for the provision of said common services to said community.

Regarding claim 67, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein recording said transferring of said exclusive

Art Unit: 3629

rights in said or one or more decision making authorities with an appropriate governmental real estate records office before dedicating public rights-of-way for roadways, curbs, and sidewalks to a municipality, said common services easements appearing within the chain of title of the real estate of said developed community before said dedication of said public rights-of-way, said municipality taking said dedication subject to said exclusive rights (applicant is claiming recordation of deed with the city or county as their claimed invention).

Regarding claim 68, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein common services comprise internet services.

Regarding claim 69, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein common services comprise electricity services.

Regarding claim 70, as responded to earlier, MRIS in view of Galaty teaches existence of business practice wherein each step is performed pursuant to obligations arising out of a system of interrelated contractual requirements regarding the development of said community.

Conclusion

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

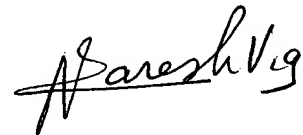
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Naresh Vig", with a stylized flourish at the end.

Naresh Vig
Examiner
Art Unit 3629

October 16, 2006